THE HON'BLE MS. JUSTICE G. ROHINI

W.P.No. 22905 of 2004

Heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents.

The petitioner was granted the works contract for execution of excavation of supply channel in Kandukuru, Prakasham District. To that effect an agreement was executed on 10-6-2004. However,it appears that the petitioner failed to commence the work and on that ground the 2nd respondent by letter dated 26-10-2004 determined the contract. Subsequently on a request made by the petitioner, vide letter dated 12-11-2004 the 1st respondent revoked the order of determination of contract and called upon the petitioner to resume the work within a week and put up concerted efforts to show good progress of execution of work and complete the work expeditiously. But it is alleged that the respondents failed to handover the site in terms of order dated 12-11-2004. Hence this writ petition seeking a declaration that the action of the respondents in not implementing the orders of the 1st respondent dated 12-11-2004 as illegal and arbitrary and for a consequential direction to implement the orders dated 12-11-2004 immediately by handing over the site and field mark outs to enable him to commence the work.

This court having heard the learned counsel on either side, pending final orders in the writ petition passed an interim order dated 27-04-2005, which reads as follows:

> *"The petitioner seeks to issue writ of mandamus declaring the action of the respondents in not implementing the orders of the first respondent dated 12-11-2004 as unconstituti9onal and unreasonable. By the said letter the first respondent while revoking the determination orders permitted the petitioner to resume work within a week and put up concerted efforts to show good progress of execution of work and complete the work expeditiously in terms of agreement.*
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> *It is stated that the said orders of the first respondent have not been implemented by the 2nd respondent. On the*

other hand, the 2nd respondent addressed a letter dated 27-11-2004 to the petitioner stating that no revoking orders on the determination of contract have been received by him and therefore the petitioner is not entitled to enter into the site of the work and executing the work.

The 2nd respondent filed his counter affidavit. But there is no reference with regard to the letter of the 1st respondent dated 12-11-2004. It appears that the 2nd respondent is wholly responsible for delaying the work for obvious reasons.

Accordingly, the 2nd respondent is directed to permit the petitioner forthwith enter into the site of the work and execute the work as directed by the first respondent."

When the matter is taken up for consideration the learned counsel for the petitioner submits that in spite of the interim directions of this court the respondents failed to hand over the site in question.

It is relevant to note that a separate counter affidavit dated 16-07-2005 has been filed by the 1st respondent stating that there is a problem with regard to acquisition of land only to an extent of 5.2 Km. against the total supply channel length of 10.2 KM., and that the land plan schedules were already furnished to the Revenue Divisional Officer, Kandukur, which are under finalisation. It is also stated that after payment of compensation, the site of 5.2 Km. will be handed over to the petitioner. It is further stated that the petitioner has not furnished the additional security deposit amount of Rs.9.47 lakhs as required under the agreement. However, the respondents have exempted the petitioner from the said conditions and the petitioner was called upon to commence the work.

The learned Government Pleader has placed before this court the letter dated 2-9-2005 addressed by the 1st respondent informing the petitioner about the consideration of his representations dated 16-8-2005 and 24-8-2005 and exempting him from payment of additional security deposit and other conditions and requesting him to furnish immediately the consent letter to start the work. The learned counsel for the petitioner submits that the petitioner has already commenced the work.

In view of what has been stated in the counter affidavit of the 1st respondent assuring that the site of 5.2 kms. will also be handed over

to the petitioner as soon as the land plan schedules are finalized and compensation is paid, no further adjudication is necessary on merits.

Accordingly the writ petition is disposed of with a direction to the respondents to take necessary steps in pursuance of letter No.DB/D1/W/193, dated 2-9-2005 as soon as the consent letter is received from the petitioner. No costs.

25th October, 2005

BJ/